

521J.17 Protected cell captive companies.

1. One or more sponsors may form a protected cell captive company.
2. A protected cell captive company formed or authorized under [this chapter](#) shall be subject to all of the following requirements:
 - a. (1) A protected cell captive company may establish one or more protected cells subject to the prior written approval of the commissioner of a plan of operation submitted by the protected cell captive company for each protected cell. The plan of operation shall include but is not limited to the specific business objectives and investment guidelines of the protected cell.
 - (2) Upon the commissioner's approval of the protected cell captive company's plan of operation, the company, in accordance with the approved plan of operation, may attribute insurance obligations with respect to its insurance business to the protected cell.
 - (3) A protected cell captive company shall transfer all assets attributable to a protected cell to one or more separately established and separately identified protected cell accounts bearing the name or designation of that protected cell. Each protected cell shall have a distinct name or designation that must include the words "protected cell". Protected cell assets shall be held in the protected cell accounts for the purpose of satisfying the obligations of the specific protected cell.
 - (4) Each protected cell shall be incorporated. An incorporated protected cell may be organized and operated in any form of business organization as authorized by the commissioner by rule. Each protected cell of a protected cell captive company shall be treated as a captive insurance company under [this chapter](#), except that the limit on maximum yearly aggregate taxes paid under [section 432.1A, subsection 4](#), shall not apply. Unless otherwise permitted by the organizational document of a protected cell captive company, each protected cell of the protected cell captive company must have the same directors, secretary, and registered office as the protected cell captive company.
 - b. All attributions of assets and liabilities between a protected cell and the protected cell captive company's general account shall be in accordance with the plan of operation and the participant contracts as approved by the commissioner. No other attribution of assets and liabilities shall be made by a protected cell captive company between the protected cell captive company's general account and the company's protected cells. Any attribution of assets and liabilities between the general account and a protected cell shall be in cash or in readily marketable securities with established market values.
 - c. The establishment of a protected cell shall create, with respect to the protected cell, a legal person separate from the protected cell captive company. Amounts attributed to a protected cell under [this chapter](#), including assets transferred to a protected cell account, shall be owned by the protected cell and the protected cell captive company shall not be a trustee, or hold itself out to be a trustee, with respect to the protected cell assets of that protected cell account.
 - d. A protected cell captive company may contract with or arrange for an investment adviser or other third party, approved by the commissioner, to manage the protected cell assets of a protected cell if all remuneration, expenses, and other compensation of the third party are paid from the protected cell assets of that protected cell, and not from the protected cell assets of other protected cells or the assets of the protected cell captive company's general account.
 - e. (1) A protected cell captive company shall establish the administrative and accounting procedures necessary to properly identify each protected cell of the protected cell captive company, and the protected cell assets and protected cell liabilities attributable to each protected cell. The directors of a protected cell captive company shall be responsible for all of the following:
 - (a) Maintaining the assets and liabilities of protected cells separately, and separately identifiable, from the assets and liabilities of the protected cell captive company's general account.
 - (b) Maintaining protected cell assets and protected cell liabilities attributable to one

protected cell separate, and separately identifiable, from protected cell assets and protected cell liabilities attributable to another protected cell.

(2) If a protected cell captive company fails to comply with subparagraph (1), the remedy of tracing shall be applicable to protected cell assets commingled with protected cell assets of other protected cells, or commingled with the assets of the protected cell captive company's general account. The remedy of tracing shall not be the exclusive remedy.

f. When establishing a protected cell, a protected cell captive company shall attribute assets with a value at least equal to the reserves attributed to that protected cell to the protected cell.

3. Each protected cell shall be accounted for separately on the books and records of the protected cell captive company to reflect the financial condition and result of operations of the protected cell, including but not limited to the net income or loss, dividends or other distributions to participants, and any other factor provided in the participant contract, or as required by the commissioner by rule.

4. The assets of a protected cell shall not be chargeable with liabilities arising from any other insurance business of the protected cell captive company.

5. A protected cell captive company shall not make a sale, exchange, or other transfer of assets among any of the company's protected cells without the consent of the participants of each affected protected cell.

6. A protected cell shall not make a sale, exchange, transfer of assets, dividend, or distribution to a sponsor or to a participant without the commissioner's prior written approval, which shall not be given if the sale, exchange, transfer, dividend, or distribution will result in the insolvency or impairment of the protected cell.

7. A protected cell captive company shall annually file with the commissioner any financial reports required by the commissioner, as established by rule, and shall include, without limitation, accounting statements detailing the finances of each protected cell.

8. A protected cell captive company shall notify the commissioner in writing within ten business days from the date that a protected cell has become impaired or insolvent, or is otherwise unable to meet its claim or expense obligations.

9. A participant contract shall not take effect without the commissioner's prior written approval.

10. An addition of any new protected cell, or the withdrawal of any participant of an existing protected cell, shall constitute a change in the business plan of the protected cell captive company, and the change shall not become effective without the prior written approval of the commissioner.

11. With respect to each protected cell, business written by a protected cell captive company shall be fronted by an insurance company authorized under the laws of any state, or as approved by the commissioner.

12. If a protected cell captive company's business is reinsured, with respect to each protected cell, the protected cell captive company shall comply with at least one of the following requirements:

a. The business shall be reinsured by a reinsurer authorized or approved by the commissioner.

b. The business shall be secured by a trust fund that is located in the United States for the benefit of policyholders and claimants, and which is funded by an irrevocable letter of credit or other asset that is acceptable to the commissioner, and that is subject to all of the following:

(1) The amount of security provided by the trust fund shall not be less than the reserves associated with the liabilities that are not fronted or reinsured, including but not limited to reserves for losses that are allocated for loss adjustment expenses, incurred but not reported losses, and unearned premiums for business written through the participant's protected cell.

(2) The commissioner may require the protected cell captive company to increase the funding of any trust.

(3) If the form of security in the trust is a letter of credit, the letter of credit shall be established, issued, or confirmed by a bank chartered in this state, a member of the

federal reserve system, or a bank chartered by another state if the bank is approved by the commissioner.

(4) The commissioner shall approve the form and terms of the trust and trust instrument.
[2023 Acts, ch 107, §20, 31](#)

Referred to in [§521J.1](#)

Section applies January 1, 2025, to protected cell captive companies formed, authorized, or continued on or after that date; 2023 Acts, ch 107, §31

NEW section